

1 (Whereupon, the following
2 proceedings were not of a
3 confidential nature and were had
4 in open court.)

5 MS. SODERNA: So I'm done with that particular
6 line.

7 JUDGE GILBERT: Then we're back in the public
8 record.

9 FURTHER CROSS-EXAMINATION

10 BY

11 MS. SODERNA:

12 Q The total number of contracts we discussed
13 earlier entered into in 2005 was 110,000; would you
14 agree with me? It was in response to Staff's CSD
15 2.01, which I think you have.

16 A Purpose -- let me just say, subject to
17 check. I think --

18 Q Yeah, I'm not sure it's critical for these
19 questions. But, yeah, let's just say subject to
20 check and then we can reverify that later if we need
21 to.

22 According to the Company, in your

1 rebuttal testimony, which was filed in December, the
2 Company had approximately 100,000 customers; right?

3 A Correct.

4 Q Okay. And has the Company -- I think you
5 answered this already -- but has the Company
6 performed any additional calculations, analyses or
7 studies showing whether any other customers who have
8 completed their contract saved money with
9 U.S. Energy's product as compared to what they would
10 have paid to the utility?

11 A No, we haven't.

12 Q And you're familiar enough with CUB's gas
13 marketer to recognize this cross-exhibit, which I'll
14 mark as 15. And you attached something similar to
15 your direct testimony showing results of the gas
16 market monitor and this is -- this represents the
17 results of the gas marketer regarding U.S. Energy's
18 fixed-price product. And this is as of October 14th,
19 yesterday.

20 (Whereupon, CUB Cross-Exhibit
21 No. 15 was marked for
22 identification.)

1 BY MS. SODERNA:

2 Q Does this look familiar to you generally?

3 A Oh, yes, it does.

4 Q And the pages just -- it goes in reverse
5 date order starting with the most recent date. And
6 if you go to the last page of this exhibit, the very
7 last entry, which indicates the product Just Energy
8 offered as of October 3rd, 2005. And it indicates it
9 was a fixed priced offer for four years at \$1.30;
10 right?

11 A That's what it says, yes.

12 Q And at that time it looks like there was a
13 monthly fee of 365; is that accurate?

14 A I don't believe so. We don't charge -- on
15 those products I don't think we've ever charged an
16 administrative fee.

17 Q Okay. Let's look at the results from
18 October 18th, 2005 --

19 A Yes.

20 Q -- which is the fixed-price product for
21 four years. Let's look at that four-year product.
22 Because those customers as of this week will have

1 completed their four years contract -- those that
2 stayed with the Company; right?

3 A Yes.

4 The four-year you're saying?

5 Q Yeah, I'm referring to the four year
6 because, of course, 2005 is when they contracted.
7 So...

8 A Okay.

9 Q So would you agree with me that this shows
10 that a customer using an average -- the average
11 amount of gas CUB assumes, which is 1325 therms who
12 completed their four-year contract paid an additional
13 \$2,471.30 than they would have paid had they stayed
14 with utility? Do you see that?

15 A I see where it says that, yes.

16 Q You don't agree that that's accurate?

17 A Well, I can't agree. I didn't do it. I
18 see that that's what you've got reflected there.

19 Q Okay. The next few questions -- or the
20 next couple questions I have were marked -- and I'll
21 have you check -- they were marked as confidential
22 and want to make sure I don't tread on any

1 confidential material. It's Page -- direct testimony
2 Page 4, Lines 83 and 48. And I'm quickly nearing
3 completion.

4 A What page? Sorry.

5 Q Page 4, Lines 83 and 84. And we can go in
6 camera if you maintain the confidentiality of that
7 statement.

8 MR. CLANCY: That's been dedesignated.

9 MS. SODERNA: It has? Okay. I just want to
10 make sure.

11 BY MS. SODERNA:

12 Q Okay. So there you state that generally
13 though, not --

14 JUDGE GILBERT: Don't tell him what he says.
15 Just ask the question. He knows where it is.

16 BY MS. SODERNA:

17 Q So -- all right. Well, then we can just
18 move in.

19 In your rebuttal testimony you take
20 issue with Miss Alexander's statement that the
21 product marketed by U.S. Energy in 2007 provided no
22 economic benefit; right?

1 A I believe so, yes.

2 Q And that's because you believe that the
3 possibility that a customer could save money in
4 comparison to what they pay to the utility or some
5 other product provides some sort of economic benefit
6 to that customer; right?

7 A Can you provide the reference from where
8 you're reading from?

9 Q I'm actually just asking your opinion.

10 A Okay. Sorry. Restate it.

11 Q I'm asking if you believe that the
12 possibility that a customer would save money in
13 comparison to what he or she would have paid to the
14 utility or another alternative supplier provides some
15 sort of economic benefit to them? The potential of
16 saving money provides the economic benefit. Is that
17 your opinion?

18 A It would if it provided -- or -- if it
19 provided savings, yes.

20 Q Right.

21 A If there was an opportunity to save.

22 Q You would agree with me, wouldn't you, that

1 customers who completed their U.S. Energy contract --
2 and let's just say hypothetically here -- who paid
3 more than they would have paid the utility -- and
4 let's just for the sake of argument say substantially
5 more than they would have paid to the utility --
6 received no economic benefit from U.S. Energy's
7 product; wouldn't you agree?

8 A No, I disagree.

9 Q And the economic benefit that you believe
10 those customers received was the ability to pay the
11 same amount every month even if it's more?

12 A Same as they do with so many other products
13 I mentioned earlier. Same as they do for insurance.
14 It's a stability product.

15 MS. SODERNA: Okay. That's all I have,
16 actually.

17 JUDGE GILBERT: Do you still want to move for
18 admission of --

19 MS. SODERNA: I do.

20 I'd like to move for the admission
21 of --

22 JUDGE GILBERT: I have 9 through 15.

1 MS. SODERNA: -- CUB Cross-Exhibits 9 through
2 15, please.

3 JUDGE GILBERT: Okay. With the understanding
4 that you're probably going to have to redact some
5 information from a couple of those or I have to make
6 a designation to some of the information on a couple
7 of those can't be used as evidence because there's
8 more than one data request on the same page.

9 With that understanding, are there
10 objections to the admission of any or all of these?

11 MR. McMANAMAN: Let me just make sure.

12 I think the only objection I have is
13 the last one, which is Cross-Exhibit 15. It's the
14 copy of the gas market monitor. I don't know that
15 the witness laid the necessary foundation for the
16 admission of that one.

17 JUDGE GILBERT: Julie, there's an objection.
18 Please respond.

19 MS. SODERNA: I'm sorry.

20 MR. McMANAMAN: It was just No. 15, the gas
21 market monitor. And the objection was a lack of
22 foundation from the witness.

1 MS. SODERNA: Lack of foundation? He testified
2 that not only does he provide the information to CUB,
3 but he reviews -- he's reviewed it on several
4 occasions and he references it in his direct
5 testimony. He attaches it as an exhibit, the
6 results. This is just a more updated version of it.
7 I mean, his criticisms of it are well documented in
8 his testimony.

9 JUDGE GILBERT: Yeah, I'm just going to cut to
10 the chase. I'm denying the objection.

11 You have not objected to the others so
12 all of them are admitted. However, I need both
13 parties to look at each of the exhibits that have
14 data requests and either choose to redact the
15 information that was not part of cross-examination or
16 I can make a ruling that anything that was not part
17 of cross-examination cannot be used as evidence.

18 So you can either change it physically
19 or you can identify for me which parts are not to be
20 used as evidence and I'll make a ruling on that.

21

22

1 (Whereupon, CUB Cross-Exhibit
2 Nos. 9 through 15 were admitted
3 into evidence.)

4 MS. SODERNA: We will do that. Right now you
5 want us to do it?

6 MR. McMANAMAN: Let's choose to do the
7 redactions ourselves. How about that?

8 MS. SODERNA: And then submit it later --

9 MR. McMANAMAN: Yeah, we can swap.

10 MR. CLANCY: We can do it at the end.

11 MS. SODERNA: That works for me, and save time.

12 JUDGE GILBERT: And swap out the exhibits?

13 MR. CLANCY: Yes.

14 JUDGE GILBERT: Perfect.

15 Let's go off the record for a moment.

16 (Whereupon, a discussion was had
17 off the record.)

18 JUDGE GILBERT: All right. The game plan is as
19 follows: We're going to take a brief lunch break.
20 It really can't be any longer than a half-hour given
21 our time constraints. If you want to bring back food
22 and eat it here, that's perfectly fine with me.

1 Our next witness is going to be CUB
2 witness Zermeno. Now, because of time constraints of
3 the witnesses I was presented with a choice of either
4 going to Ms. Alexander next or Mr. Zermeno. CUB has
5 chosen to go with Mr. Zermeno first and that's their
6 choice.

7 That means the following:
8 Ms. Alexander has informed us that she needs to leave
9 by 4:00 p.m. in order to catch a plane. I'm going to
10 make a judgment call as this proceeds. If I feel
11 like either cross or direct or redirect examination
12 is essentially consuming time without need, I'm going
13 to cut it off. On the other hand, depending on how I
14 read the situation as it proceeds it may be necessary
15 for Miss Alexander to come back or it may be
16 necessary for me to stop cross-examination so that
17 she can go home and not come back. So I'll be making
18 a judgment call on the conduct of counsel in order to
19 deal with the time constraints that I've been
20 presented with and about which I have no choice
21 because neither witness can come back tomorrow.

22 So with that in mind, let's take a

1 half-hour, come back. Let's be promptly ready to go.
2 Bring food and drink if you need to. We start with
3 Mr. Zermeno.

4 Anybody want to say anything?

5 MR. McMANAMAN: Can I just ask one question?

6 JUDGE GILBERT: Sure.

7 MR. McMANAMAN: When we come back we're going
8 to start with Mr. Zermeno and then are we immediately
9 going to Miss Alexander before we go back to
10 Mr. Potter?

11 JUDGE GILBERT: Yes, we are.

12 MR. McMANAMAN: Can I just note that I have an
13 objection to that for the record, that Miss Alexander
14 is going to start and finish while Mr. Potter's
15 testimony is open.

16 JUDGE GILBERT: Yeah. That's what's going to
17 happen because there's more cross-examination from
18 Staff, I assume. Yes?

19 MS. NAUGHTON: Yes, I can try to shorten it.

20 JUDGE GILBERT: I have some questions. There's
21 just not a way to do this otherwise. So objection
22 noted.

1 MR. McMANAMAN: Right.

2 JUDGE GILBERT: That's all I can do.

3 MR. McMANAMAN: I figured that the outcome was
4 predestined, but I just wanted to make sure I have it
5 in the record.

6 JUDGE GILBERT: That's fair. I'll see you in a
7 half-hour.

8 MS. LIN: Judge, can we do -- is it possible
9 that we just do Zermeno now and then break for lunch
10 or is that not your preference?

11 JUDGE GILBERT: Let's stop for a second. Off
12 the record.

13 (Whereupon, a discussion was had
14 off the record.)

15 JUDGE GILBERT: We're back on the record.

16 (Interpreter and Witness duly
17 sworn.)

18 JUDGE GILBERT: Would the interpreter state his
19 name, please.

20 THE INTERPRETER: Luciano Salem.

21

22

1 LUCIANO SALEM,
2 called as an interpreter herein, was sworn to
3 interpret the questions from the English language to
4 the Spanish language and the answers from the Spanish
5 language to the English language.

6 ALEX ZERMENO,
7 called as a witness herein, having been first duly
8 sworn, was examined and testified through an
9 interpreter as follows:

10 DIRECT EXAMINATION

11 BY

12 MS. SODERNA:

13 Q Good morning, Mr. Zermeno. Could you
14 please state your full name for the record.

15 A Alex Zermeno.

16 Q Could you spell it for me.

17 A A-l-e-x Z-e-r-m-e-n-o.

18 Q Thank you.

19 And did you prepare written testimony
20 for this proceeding?

21 A Yes.

22 Q And you have in front of you your direct

1 testimony that is labeled as CUB Exhibit 4.0, and
2 your rebuttal testimony which is labeled as CUB
3 Exhibit 7.0? Do you have those in front of you?

4 A Yes.

5 Q Do you have any corrections to your
6 testimony?

7 A No.

8 Q And are these -- is the information
9 contained in this testimony true and accurate to the
10 best of your knowledge and belief?

11 A Yes.

12 Q And if I were to ask you the questions set
13 forth in your direct and rebuttal testimony today,
14 would your answers be the same?

15 A Yes.

16 MS. SODERNA: And with that I'd like to move
17 for the admission of CUB Exhibits 4.0 and -- the
18 direct testimony of Alex Zermeno and CUB Exhibit 7.0,
19 the rebuttal testimony of Alex Zermeno subject to
20 cross-examination, please.

21 JUDGE GILBERT: Are there any objections to the
22 admission of CUB Exhibits 4.0 or 7.0?

1 MR. McMANAMAN: None, your Honor.

2 MS. NAUGHTON: None.

3 JUDGE GILBERT: Okay.

4 MS. SODERNA: Can I clarify quickly? I'm

5 sorry, your Honor. There are also Spanish versions

6 of each of his testimonies that are labeled and have

7 been submitted to the parties. They are labeled as

8 CUB Exhibit 4.0S and CUB Exhibit 7.0S. And I would

9 also move for the admission of those testimonies,

10 please.

11 JUDGE GILBERT: Okay. Are there any objections

12 to the Spanish versions of those testimonies?

13 MR. McMANAMAN: None, your Honor.

14 MS. NAUGHTON: None.

15 JUDGE GILBERT: Thank you for that

16 clarification.

17 CUB Exhibits 4.0 and 4.0S, 7.0 and

18 7.0S are admitted.

19 (Whereupon, CUB Exhibit

20 Nos. 4.0, 4.0S, 7.0 and 7.0S

21 were admitted into evidence.)

22 JUDGE GILBERT: Go off the record for just a

1 moment.

2 (Whereupon, a discussion was had

3 off the record.)

4 JUDGE GILBERT: Back on the record.

5 CROSS-EXAMINATION

6 BY

7 MR. McMANAMAN:

8 Q Good afternoon, Mr. Zermeno.

9 A Good afternoon.

10 Q My name is Martin McManaman. I'm an

11 attorney representing the Company in this case, Just

12 Energy, which used to be called U.S. Energy Savings

13 Corp.

14 I'm going to ask you a few questions

15 about the testimony that you provided.

16 A Yes.

17 Q In your testimony you indicated that you

18 signed a contract in 2007; is that correct?

19 A Yes.

20 Q As of 2007 -- actually, let me ask it this

21 way: How long have you lived in the United States?

22 A About 19.

1 Q Years?

2 A Yes.

3 Q And is that as of today?

4 A Yes.

5 Q So is it fair to say that you came to live

6 in the United States in 1990?

7 A Yes. Yes.

8 Q Have you lived -- since you've lived in the

9 U.S., have you always lived in Chicago?

10 A Yes.

11 Q And where do you work, Mr. Zermeno?

12 A In a company called Salisbury.

13 Q And what kind of company is Salisbury?

14 A We make rubber for protection for

15 electricity.

16 Q And what is your job?

17 A I weight the materials for the formulas.

18 Q And how long have you worked at Salisbury?

19 A Five years.

20 Q Where did you work before that?

21 A In a Korean company where they made

22 briefcases.

1 Q Okay. Are you married?

2 A No, we just live together.

3 Q Do you have any children?

4 A Yes.

5 Q And what are their ages?

6 A Just one, 11 years old.

7 Q And does he go to school here in Chicago?

8 A Yes.

9 Q What school does he go to?

10 A The name is Trumbull.

11 Q Is it spelled T-r-u-m-b-u-l-l?

12 A Yes.

13 Q Now, is it -- am I correct in understanding

14 that you speak no English?

15 A Yes.

16 Q So what you're telling me is that since

17 you've come to live in the United States in 1990 that

18 you've learned no English?

19 A Very little.

20 Q And that you don't conduct any of your --

21 any transactions in your personal life in English?

22 A I always ask for them to be in Spanish.

1 Q When you're at work, do you deal with any
2 of your -- do you speak English to any of your
3 coworkers?

4 A I work almost with all Hispanics.

5 Q Okay. And with your children's school, do
6 you speak Spanish with all of the people at the
7 school?

8 A I hardly talk to anyone over there.

9 Q Okay. Has there ever been points in your
10 recent past -- let just say the last few months --
11 where you've been required to speak English?

12 A Sometimes they ask me to speak English, but
13 I said "no" because I don't understand.

14 Q Have you ever signed any agreements in
15 English?

16 A No, since that -- since this happened to
17 me, not anymore.

18 Q Did you ever sign any agreements that were
19 written in English before the contract that we're
20 here about today?

21 A I don't remember.

22 Q Okay. Can you tell me where you live.

1 A 1603 W Catalpa in Chicago, Illinois.

2 Q Is that an apartment?

3 A Yes.

4 Q Do you own the apartment?

5 A No, I rent.

6 Q Do you have a lease?

7 A Not now.

8 Q Did you have one at any time?

9 A Yes, last year.

10 Q Was it written in English?

11 A Yes.

12 Q Okay. Now, what -- excuse me for just a

13 second.

14 MR. McMANAMAN: So, Judge, what I'd like to do

15 is play a copy of the verification call and then, you

16 know, have the witness listen to it and just ask him

17 a couple questions just to authenticate it.

18 JUDGE GILBERT: Okay.

19 MR. McMANAMAN: Unless you think that we can

20 just stipulate to the authentication.

21 MS. SODERNA: Judge, I'll put it to you. Would

22 you like to hear it or do you think we can dispense

1 with the --

2 JUDGE GILBERT: I'd like to --

3 MS. SODERNA: I just find it difficult to

4 understand why we would stipulate to something that

5 the rest of the room hasn't heard and the Judge

6 hasn't heard, but --

7 MR. McMANAMAN: That's fine.

8 JUDGE GILBERT: If that's the only issue, I

9 wouldn't mind saving the time. Is there any doubt

10 that this is the authentication?

11 MS. SODERNA: No. There's no doubt that that's

12 the verification tape for the transaction at issue.

13 JUDGE GILBERT: Is there a transcript -- a

14 written transcript in the way that CUB provided --

15 MS. SODERNA: There is I think attached to -- I

16 think we have them here if we need them.

17 MR. McMANAMAN: But we didn't prepare it, your

18 Honor.

19 JUDGE GILBERT: Okay.

20 MR. McMANAMAN: I think it probably is worth

21 listening to. It's only a few minutes.

22 JUDGE GILBERT: All right. Well, on this it

1 looks like we're only going have a CD and not a
2 transcript. So why don't we mark that --

3 MR. McMANAMAN: I have it marked as
4 Respondent's Cross-Exhibit 1, if that's okay.

5 JUDGE GILBERT: You don't have a transcript, do
6 you?

7 MR. McMANAMAN: I don't because the transcript
8 isn't really the important part from my perspective.

9 JUDGE GILBERT: Okay. But from the court
10 reporter's perspective now is she going to be
11 transcribing Spanish?

12 MR. McMANAMAN: No, it's in English.

13 JUDGE GILBERT: Entirely?

14 MR. McMANAMAN: Yes.

15 MS. SODERNA: If it makes it easier, we have --
16 I believe we have copies of the transcript.

17 JUDGE GILBERT: Okay.

18 MS. SODERNA: Although, I'm not sure how to
19 label it.

20 JUDGE GILBERT: Well, it's up to them to label
21 it because they're using it as a cross-exhibit.

22 MR. McMANAMAN: Right.

1 JUDGE GILBERT: So do you have three copies you
2 can give them?

3 MS. SODERNA: Yes.

4 JUDGE GILBERT: You can just hand them three
5 copies. The transcript itself will be Respondent's
6 Cross-Exhibit 1 and the CD will be Respondent's
7 Cross-Exhibit 1A.

8 (Whereupon, Respondent
9 Cross-Exhibit Nos. 1 and 1A
10 were marked for
11 identification.)

12 JUDGE GILBERT: Thank you, CUB, for providing
13 those documents.

14 (Whereupon, Respondent's Cross
15 1A, an audio CD, was played.)
16 (Whereupon, the following 6
17 pages is a transcription of
18 Respondent's Cross-Exhibit 1.)

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1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF COOK)

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Transcription of a CD Recording of a
telephone conversation between a U.S. Savings
Corporation customer service representative and Alex
Zermeno.

1 SARAH: Good afternoon. Thank you for calling
2 customer service. This is Sarah speaking.

3 KAREEM: Hello, Sarah, it's Kareem (phonetic)
4 speaking.

5 SARAH: Okay. How are you?

6 KAREEM: Sarah, can you give me your ID number.

7 SARAH: 75062.

8 KAREEM: My ID number is 730306.

9 SARAH: And what do you have for us today?

10 KAREEM: People's account residential five
11 years. You will talk with the account holder.

12 SARAH: And the name on the account is?

13 KAREEM: Alex, A-l-e-x, the last name would be
14 Zermeno, Z-e-r-m-e-n-o.

15 SARAH: And the phone number?

16 KAREEM: (773) 430-6535.

17 SARAH: Thank you.

18 Can I speak with Mr. Zermeno.

19 MR. ALEX ZERMENO: Hello.

20 SARAH: Good afternoon. This is Mr. Zermeno?

21 MR. ALEX ZERMENO: Yes.

22 SARAH: Hi, my name is Sarah and I am with U.S.

1 Energy Savings and I just need to ask you a couple of
2 questions.

3 MR. ALEX ZERMENO: Okay.

4 SARAH: Okay. In order to provide you with a
5 price protection reservation code for the agreement
6 that you just signed -- and just to let you know our
7 call is being recorded for quality purposes.

8 MR. ALEX ZERMENO: Okay.

9 SARAH: Can you please provide me with your
10 name.

11 MR. ALEX ZERMENO: Alex Zermeno.

12 SARAH: Thank you. Mr. Zermeno, may I please
13 have your People's Gas account number.

14 MR. ALEX ZERMENO: 5500047406634.

15 SARAH: And the name on the account would be.

16 MR. ALEX ZERMENO: Alex Zermeno.

17 SARAH: Thank you.

18 Mr. Zermeno, what would be the best
19 phone number we can reach you at?

20 MR. ALEX ZERMENO: (773) 430-5535.

21 SARAH: Okay. Perfect. Thank you. Now, in
22 order to continue the enrollment process for your

1 price protection agreement at a rate of \$1.14 per
2 therm for a term of five years, we do require a
3 confirmation. Of course, while the agreement does
4 not promise savings, it does offer piece of mind,
5 stability, and protection against potential future
6 price increases as well as it does have the potential
7 for savings.

8 So can you please confirm your
9 agreement by responding with the word "yes."

10 MR. ALEX ZERMENO: Yes.

11 SARAH: Thank you.

12 So we will continue the enrollment
13 procedures necessary to secure your natural gas rate
14 at a rate of \$1.14 per therm. You do have three
15 business days to cancel this agreement without any
16 cost, otherwise in approximately 15 to 90 days you
17 should notice USESC's name and toll free number
18 appear on your natural gas bill. And at that time
19 USESC will be supplying your natural gas at the
20 guaranteed fixed price.

21 While USESC is not affiliated with
22 People's, you will continue to receive one bill in

1 the mail from People's Gas and People's Gas will
2 continue to deliver your natural gas to your home.

3 MR. ALEX ZERMENO: Okay.

4 SARAH: And for any reason you do not notice
5 USESC's name and toll free number appear on your bill
6 after the 90 days, if you could please give us a
7 call.

8 MR. ALEX ZERMENO: Okay.

9 SARAH: Thank you so much for your assistance,
10 and thank you for choosing U.S. Energy Savings.

11 May I please speak back with Kareem
12 your independent contractor with you.

13 KAREEM: Yes.

14 SARAH: Kareem, I verified the information and
15 the price protection reservation code is 8540975223.

16 KAREEM: Thank you. Have a wonderful day.

17 SARAH: Thank you. You, too.

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1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF COOK)

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4

5 Auhdikiam Carney, says that he is a
6 Certified Shorthand Reporter, in association with
7 Sullivan Reporting Company, and transcribed to the
8 best of his ability a CD recording of a telephone
9 conversation between a U.S. Energy Savings
10 Corporation customer service representative and Alex
11 Zermeno.

12 And, further, he is not connected by blood
13 or marriage with any of the parties to this action,
14 nor is he a relative or employee or attorney or
15 counsel of any of the parties, or financially
16 interested directly or indirectly in the matter in
17 controversy.

18

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22

Certified Shorthand Reporter
License No. 084-004658

1 JUDGE GILBERT: All right. The playing of the
2 CD is over now.

3 BY MR. McMANAMAN:

4 Q Mr. Zermeno, were you able to hear the CD
5 that we just played?

6 A Yes.

7 Q And did you hear your own voice on that CD?

8 A Yes.

9 Q Do you remember who the contractor was that
10 came to your house?

11 A No. No, I don't remember.

12 Q And I'm sorry, that was a poor question. I
13 wasn't asking if you remember his name.

14 Do you remember him generally?

15 A Oh, yes.

16 Q Do you remember what he looked like?

17 A He was like Asian. He was like Filipino or
18 something like that.

19 Q Did he speak with an accent?

20 A Yes.

21 Q Do you remember how old?

22 A I would say more than 50.

1 MR. McMANAMAN: Judge, those are all the
2 questions that I have.

3 Thank you, Mr. Zermeno.

4 JUDGE GILBERT: Does Staff have any cross?

5 MS. LIN: None, Judge.

6 JUDGE GILBERT: Any redirect?

7 MS. SODERNA: I just have one question, I
8 think, or two.

9 JUDGE GILBERT: Are you ready to do them now or
10 do you need to --

11 MS. SODERNA: Yes. No, I don't need to wait.

12 REDIRECT-EXAMINATION

13 BY

14 MS. SODERNA:

15 Q Did the sales contractor that came to your
16 door, did he speak to you in English or Spanish?

17 A Some words in Spanish.

18 Q Which words did he use in Spanish?

19 A When I was -- when he was going to make the
20 phone call he said, When I tell you, you say this and
21 then you say this.

22 MS. SODERNA: That's all I have.

1 JUDGE GILBERT: I just have one question.

2 Did you believe that the contractor

3 could speak Spanish?

4 THE WITNESS: (Through the interpreter) He say

5 a few words -- a little bit in Spanish.

6 JUDGE GILBERT: Okay. All right.

7 Any recross within the confines of

8 either Ms. Soderna's questions or my questions?

9 MR. McMANAMAN: Just a couple, your Honor.

10 RECROSS-EXAMINATION

11 BY

12 MR. McMANAMAN:

13 Q Did you say anything to the sales

14 contractor in English?

15 A I don't remember. I don't remember. For

16 example, I said, No speak English.

17 Q Okay. Other than that, do you remember

18 anything else that you might have -- or anything else

19 that you said in English?

20 A No.

21 MR. McMANAMAN: Those are the only questions I

22 have, your Honor.

1 JUDGE GILBERT: Okay. We're done. Witness is
2 excused. Thank you, Mr. Zermeno, and thank you, too,
3 Mr. Salem.

4 MS. SODERNA: Should we go off the record and
5 discuss a couple scheduling matters?

6 JUDGE GILBERT: Okay. We'll go off the record.
7 (Whereupon, a discussion was had
8 off the record.)

9 JUDGE GILBERT: Let's go back on the record
10 real quick.

11 First of all, Mr. McManaman --

12 MR. McMANAMAN: Your Honor, I'd like to move to
13 have entered into evidence Respondent Cross-Exhibit 1
14 and 1A.

15 MS. SODERNA: No objection.

16 JUDGE GILBERT: Okay. Respondent's Exhibits 1
17 and 1A are admitted.
18 (Whereupon, Respondent's Exhibit
19 Nos. 1 and 1A were admitted
20 into evidence.)

21 JUDGE GILBERT: Our game plan for now is to
22 take absolutely no more than a half-hour to gather

1 food, come back here, we'll start with Ms. Alexander
2 who will have to leave by 4:00 o'clock. And so I
3 imagine we'll commence right around 2:00 o'clock and
4 we'll try to get that done.

5 And all the provisos that I stated
6 earlier with respect to the conduct of counsel and
7 responses to the witness and whether or not this
8 witness will or will not have to return, I'll
9 determine at the appropriate time later.

10 Let's come back at 2:00. Thank you.

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